

HHS Standards of Conduct

(These Standards were published in a booklet entitled “Standards of Conduct” on March 30, 1989 (45 CFR Part 73). Subsequently, HHS published the Supplemental Standards of Ethical Conduct for Employees of DHHS which covers ethics rules and regulations. Therefore, only the following subparts and sections of the HHS Standards of Conduct remain in effect. [Please consult with the Office of the General Counsel prior to taking any action based on any of these subparts/sections. Revised by OGC, 5/2/2000.]

§ 73.735-301 – Courtesy and consideration for others

§ 73.735-302 – Support of department programs

§ 73.735-305 – Conduct in Federal buildings

§ 73.735-306 – Sexual harassment

§ 73.735-508(e) – Other prohibitions

§ 73.735-805 – Advice and guidance on conflicts matters

Subpart L – Disciplinary Action (§ 73.735.1201)

Subpart M – Reporting Violations (§§ 73.735.1301 – §§ 73.735.1304)

Appendix to Part 73 – List of Some Offenses for Which Disciplinary Action May be Taken

§ 73.735-301 Courtesy and consideration for others.

(a) An employee's conduct on the job is, in all respects, of concern to the Federal government. Courtesy, consideration, and promptness in dealing with the public must be shown in carrying out official responsibilities, and actions which deny the dignity of individuals or conduct which is disrespectful to others must be avoided. Employees must recognize that inattention to matters of common courtesy can adversely affect the quality of service the Department is responsible for providing. Where appropriate, courtesy to the public should be included in the standards for employee performance. (b) Of equal importance is the requirement that courtesy be shown in day-by-day interaction with co-workers. Employees shall be polite to and considerate of other employees, and shall respect their needs and concerns in the work environment.

§ 73.735-302 Support of department programs.

(a) When a Department program is based on law, Executive Order or regulation, every employee has a positive obligation to make it function as efficiently and economically as possible and to support it as long as it is a part of recognized public policy. An employee may, therefore, properly make an address explaining and interpreting such a program, citing its achievements, defending it against uninformed or unjust criticism, or soliciting views for improving it.

(b) An employee shall not, either directly or indirectly, use appropriated funds to influence, or attempt to influence, a Member of Congress to favor or oppose legislation. However, when authorized by his or her supervisor, an employee is not prohibited from: (1) Testifying, on request, as a representative of the Department on pending legislation or proposals before Congressional Committees; or (2) Assisting

Congressional Committees in drafting bills or reports on request, when it is clear that the employee is serving solely as a technical expert under the direction of committee leadership.

(c) All employees shall be familiar with regulations and published instructions that relate to their official duties and responsibilities and shall comply with those directives. This includes carrying out proper orders from officials authorized to give them.

(d) Employees are required to assist the Inspector General and other investigative officials in the performance of their duties or functions. This requirement includes the giving of statements or evidence to investigators of the Inspector General's office or other HHS investigators authorized to conduct investigations into potential violations.

§ 73.735-305 Conduct in Federal buildings.

(a) An employee shall not participate while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket.

(b) An employee shall not while in or on Government-owned or leased property or while on duty for the Government solicit alms and contributions, engage in commercial soliciting and vending, display or distribute commercial advertisements, or collect private debts.

(c) The prohibitions in paragraphs (a) and (b) of this section do not preclude: (1) Activities necessitated by an employee's law enforcement duties; (2) Participation in Federally sponsored fund-raising activities conducted pursuant to Executive Order 10927, or similar HHS-approved activities; or (3) Buying a lottery ticket at an authorized State lottery outlet for a lottery authorized by State law and conducted by an agency of a State within that State.

(d) General Services Administration regulations on "Conduct on Federal Property" apply to all property under the control of the General Services Administration, and they are also applicable to all buildings and space under the control of this Department. These regulations prohibit, among other things, gambling, being intoxicated, and possession, distribution, or use of narcotic or dangerous drugs on the premises. The GSA regulations are found in Subpart 101-20.3 of the GSA Regulations, 41 CFR 101-20.3.

§ 73.735-306 Sexual harassment.

Sexual harassment is deliberate unsolicited verbal comments, gestures, or physical contact of a sexual nature which are unwelcome. Sexual harassment is unacceptable conduct and is expressly prohibited. In addition, supervisors and managers are prohibited from taking or promising personnel actions in exchange for sexual favors, or failing to take an action because an employee or applicant for employment, refuses to engage in sexual conduct. This same prohibition applies to relationships between Department personnel who take or recommend action on a grant or contract and the grantee or contractor. Those employees who wish to file a complaint of sexual harassment should contact the Office of Equal Employment Opportunity (EEO) within their respective agencies for guidance. (Time frames for pursuing a charge alleging sexual harassment are the same as for any other complaint based on allegations of sex discrimination.)

§ 73.735-508(e) Other prohibitions.

Employees shall avoid any action whether or not specifically prohibited by this part, which might result in or create the appearance of:

(e) Making a Government decision outside official channels

§ 73.735-805 Advice and guidance on conflicts matters.

(a) Whenever an employee has a question about the appropriate course of conduct to be followed in a matter that may involve an actual or apparent conflict of interest, he or she should immediately consult with his or her supervisor or a deputy ethics counselor, or both. If a supervisor who is consulted determines that the matter warrants further consideration, he or she may, in conjunction with the employee, submit the details of the matter, in writing, to the appropriate deputy ethics counselor. These details should include a description of:

- (1) The activity, relationship, or interest giving rise to the question posed by the employee;
- (2) The duties or official responsibilities of the employee(s) involved;
- (3) The nature of the actual or apparent conflict of interest; and
- (4) Any other information that may be helpful in reviewing the problem.

(b) Upon receiving the submission of an employee or a supervisor, the deputy ethics counselor will develop any additional information about the matter as necessary, and will confer with the Department Ethics Counselor as appropriate. The Department Ethics Counselor and the head of the principal operating component or his or her designee will be informed of any serious violation of the standards of this subpart or any other conflict of interest law. Questions of first impression or other unusual matters shall be brought to the attention of the Department Ethics Counselor and the head of the principal operating component or his or her designee.

(c) On the basis of all information gathered including, where appropriate, the advice of the Department Ethics Counselor, the deputy ethics counselor will:

- (1) Decide that there is no violation or potential violation of the standards of this subpart or any other law and so notify the employee and his or her supervisor in writing; or
- (2) Decide that a violation or potential violation of the standards of this subpart or other law has occurred or may occur, and that the employee involved shall take one or more of the steps set forth in Sec. 731.735-904 to resolve the problem and notify the employee and his or her supervisor in writing; or
- (3) Decide that, although no violation of this subpart or other law has occurred, the nature of the matter is such that the employee should periodically report any additional information that would require reconsideration of the initial submission.

Subpart L – Disciplinary Action (§ 73.735.1201)

§ 73.735-1201 General provisions.

(a) Violations of the regulations contained in the Part may be cause for disciplinary action which could be in addition to any penalty prescribed by law. (For a list of some offenses for which disciplinary action may be taken and “The Code of Ethics for Government Service,” the violation of which may also result in disciplinary action, see Appendixes A and B of this Part).

(b) The type of disciplinary action to be taken must be determined in relation to the specific violation. Those responsible for recommending and for taking disciplinary action must apply judgment to each case, taking into account the general objectives of meeting any requirements of law, deterring similar offenses by the employee and other employees, and maintaining high standards of employee conduct and public confidence. Some types of disciplinary action which may be considered are:

- (1) Admonishment
- (2) Written reprimand
- (3) Reassignment
- (4) Suspension
- (5) Demotion
- (6) Removal

(c) Suspension, demotion, and removal are adverse actions; and when such actions are taken, applicable laws, regulations, and policies must be followed. [46 FR 7369, Jan. 23, 1981, as amended at 53 FR 4409, Feb. 16, 1988]

Subpart M – Reporting Violations

§ 73.735-1301 Responsibility for reporting possible criminal violations.

An employee who has information which he or she reasonably believes indicates a possible offense against the United States by an employee of the Department, or any other individual working on behalf of the Department, shall immediately report such information to his or her supervisor, any management official, or directly to the Office of the Inspector General. Offenses covered by the preceding sentence include, but are not limited to, bribery, fraud, perjury, conflict of interest, misuse of funds, equipment, or facilities, and other conduct by a government officer or employee, grantee, contractor or other person which is prohibited by title 18 of the United States Code. Employees and supervisors should refer to chapter 5-10 of the Department's General Administration Manual for procedures regarding the reporting and handling of such information.

APPENDIX A To Part 73 – List of Some Offenses for Which Disciplinary Action May Be Taken

Following is a list of some offenses for which disciplinary action may be taken under this Part. When a statute applies specifically to a particular offense, either wholly or in part, the statute is cited. Neither the list of offenses nor the statutory citations are all-inclusive. The “Code of Ethics for government Service” is not cited because of its general applicability but is published in its entirety in Appendix B.

A. Concerning Efficiency of Operations in General.

1. Engaging in wasteful actions or behavior in the performance of assigned duties; conducting non-Government business during official work hours; or participating in a strike (18 U.S.C. 1918), work stoppage, slowdown, sickout, or other similar action.
2. Absence without leave, failure to adhere to the rules and regulations for requesting and obtaining leave, or improper use of sick leave.
3. Deliberate insubordination or refusal to carry out lawful orders or assignments given.
4. Disruptive behavior, such as:
 - a. Inflicting or threatening or attempting to inflict bodily injury on another (except for necessary defense of self or others) while on the job or on Federal premises.
 - b. Discourtesy, disreputable conduct, or use of insulting, abusive or obscene language to or about other individuals while on the job.
5. Sexual harassment of employees or members of the public.
6. Failure to observe precautions for safety, such as failure to use safety equipment when it is provided or ignoring signs, posted rules or regulations, or written or verbal safety instructions.
7. Unauthorized use, possession, or distribution of alcoholic beverages (5 U.S.C. 7352) or controlled substances (e.g., hallucinogens, such as LSD; stimulants, such as cocaine and amphetamines;

sedatives, such as barbiturates; narcotics and other drugs or substances, such as hashish and other cannabis substances).

8. Unauthorized gambling; or canvassing, soliciting, or peddling on government premises.
9. Failure to carry or show proper identification or credentials as required by competent authority; misuse of identification cards or investigative or identification credentials or badges.
10. Failure to disclose (i.e., report) information, when such disclosure is not specifically prohibited by law or Executive Order, that involves (a) violation of law, rule, regulation, (b) mismanagement or gross waste of funds or abuse of authority, or (c) posing a substantial and specific danger to public health or safety; failure to cooperate in an official Department inquiry.
11. Failure to pay just debts, including taxes to and loans from governmental sources.
12. Deceit or interference in a Civil Service examination (18 U.S.C. 1917) or in connection with a Government personnel action.
13. Fraud or false statements in a Government matter. (18 U.S.C. 1001 through 1003)
14. Supervisory failure to initiate disciplinary or corrective action when the facts are known and disciplinary or corrective action is warranted.
15. Employment of an organization that advocates the overthrow of our constitutional form of government. (5 U.S.C. 7311; 50 U.S.C. 784)

B. Concerning Government Funds, Property, Documents, and Records.

1. Actual or attempted embezzlement or theft of Government or personal money or property either directly or through use of Government documents, automated equipment, or other means; actual or attempted embezzlement or theft of the money or property of another person in the possession of an employee by reason of his or her employment. (18 U.S.C. 641 and 654)
2. Failure to account for public money. (18 U.S.C. 643)
3. Deliberate falsifying of official time and attendance records; improper use of official travel or forging, counterfeiting, or otherwise falsifying official Government travel records or documents. (18 U.S.C. 508)
4. False record entries or false reports of money or securities. (18 U.S.C. 2073)
5. Loss or misuse of or damage to Government property or endangering persons or Government property through carelessness or by willful malicious conduct.
6. Mutilating, destroying, or concealing public records. (18 U.S.C. 2071)
7. Misuse of penalty (postal) privilege. (18 U.S.C. 1719)
8. Failure to safeguard administratively confidential, financial, and trade secrets information.
9. Unauthorized use of documents presented or used to procure the payment of money from or by the Government. (18 U.S.C. 285)
10. Unauthorized use of a Government vehicle; serious or repeated violations of traffic regulations while driving a Government vehicle or a vehicle rented or leased for official government purposes; reckless driving or improper operation of any Government owned, rented, or leased motor vehicle. (31 U.S.C. 1349[b])
11. Violations of the Privacy Act, including:
 - a. Willful prohibited disclosure of individually identifiable information in violation of 5 U.S.C. 552a.
 - b. Willfully maintaining a system of records without meeting the notice requirements of the Privacy Act as required by 5 U.S.C. 552a.
12. Violation of regulations concerning the release of classified information, confidential, or security and investigative information. (18 U.S.C. 798 and 1905; 21 U.S.C. 331j; and 50 U.S.C. 783)

C. Concerning Conflicts of Interest and Related Unethical Conduct:

1. Violations of 18 U.S.C. Chapter 11: Bribery, Graft, and Conflicts of Interest, including:
 - a. Having a direct or indirect financial interest (includes employee ownership of stocks, bonds, or partnership interests in an entity or employment of the employee, his or her spouse, or dependent child) that conflicts with one's Government duties because such entity is either regulated by, has or seeks to do business with the agency, or has any other particular matter with or pending before the agency that may give rise to either an actual conflict or the appearance thereof. (18 U.S.C. 208)
 - b. Bribery of a public official; soliciting or accepting directly or indirectly anything of monetary value, including gifts, gratuities, favors, entertainment, or loans either as compensation for governmental services or from individuals who are seeking contractual or other business or financial relations with the Department, are conducting operations or activities that are regulated by the Department, or have interests that may be substantially affected by the performance or nonperformance of the employee's official duties; receiving salary or any contribution to or supplementation of salary from a private source as compensation for services for the Government. (18 U.S.C. 201 and 209)
 - c. Acting as the agent of a foreign principal registered under the Foreign Agents Registration Act. (18 U.S.C. 219)
2. Engaging, directly or indirectly, in a financial transaction as a result of or primarily relying on information that is obtained through one's official duties and would not be available were the employee not an employee of the Federal Government.
3. Soliciting a contribution from another employee for a gift to an official superior, making a donation as a gift to an official superior, or accepting a gift from an employee receiving less pay than oneself. (5 U.S.C. 7351)
4. Engaging, without required permission, in outside activities that result in or create the appearance of a conflict of interest.
5. Teaching, lecturing, or writing that depends in specific information obtained as a result of one's Government employment when that information is not otherwise available to the public.
6. Failure to obtain required clearance of an official speech or article.
7. Lobbying with appropriated funds. (18 U.S.C. 1913)
8. Representation before a Federal agency (other than in the proper discharge of one's official duties) as an agent or attorney in a claim against the United States (or receiving any gratuity or share in any such claim in consideration for assistance given) or as an agent or attorney for anyone before any department, agency, court, or otherwise in connection with any proceeding, application, request for a ruling, or claim on any other particular matter in which the United States is a party or has a direct and substantial interest. (18 U.S.C. 205) (Note: This section notwithstanding, an employee may, if not inconsistent with the performance of his or her official duties, act without compensation as an agency or attorney for another person who is the subject of any disciplinary or other administrative proceeding or as an agent or attorney for one's parent, spouse, child, or any person or estate for whom or which he or she serves as personal fiduciary except in those matters in which the employee has participated personally and substantially.)

D. Concerning Prohibited Political and Election Activities.

1. Activities prohibited by 5 U.S.C. Chapter 73, Subchapter III, including:
 - a. Section 7323, "Political contributions; prohibition."
 - b. Section 7324, "Influencing elections; taking part in political campaigns; prohibitions; exceptions."
2. Activities prohibited by 18 U.S.C. Chapter 29, including:
 - a. Section 594, "Intimidation of voters."
 - b. Section 597, "Expenditure to influence voting."

- c. Section 598, "Coercion by means of relief appropriations."
- d. Section 600, "Promise of employment or other benefit for political activity."
- e. Section 601, "Deprivation of employment or other benefit for political contribution."
- f. Section 602, "Solicitation of political contributions."
- g. Section 604, "Solicitation from persons on relief."
- h. Section 606, "Intimidation to secure political contributions."

E. Concerning Prohibited Personnel Practices.

1. Commission of a prohibited personnel practice (as defined in 5 U.S.C. 2302 [b] [1-11]); that is, any employee who has authority to take, direct other to take, recommend, or approve any personnel action, shall not, with respect to such authority commit any of the following practices:
 - a. Discriminate for or against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation.
 - b. Solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of (1) an evaluation of the work performance ability, aptitude, or general qualifications of such individual or (2) an evaluation of the character, loyalty, or suitability of such individual.
 - c. Coerce the political activity of any person (including the providing of any political contribution or service) or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in such political activity.
 - d. Deceive or willfully obstruct any person with respect to such person's right to compete for employment.
 - e. Influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment.
 - f. Grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.
 - g. Appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative (as defined in 5 U.S.C. 3110) when the civilian position is in the Department or under his or her jurisdiction or control.
 - h. Take or fail to take a personnel action with respect to any employee or applicant for employment as a reprisal for the lawful disclosure of information.
 - i. Take or fail to take any personnel action against an employee or applicant for employment as a reprisal for the exercise of any appeal right granted by any law, rule, or regulation (including HHS Instructions and issuances).
 - j. Discriminate for or against any employee or applicant for employment on the basis of conduct that does not adversely affect the performance of the employee or applicant or the performance of others (except criminal conviction in determining suitability or fitness).
 - k. Take or fail to take any personnel action when the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning the merit system principles (as set forth in 5 U.S.C. 2301).